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United States District Court
Eastern District of Washington
Honorable Mary K. Dimke

United States,

Plaintiff,

v.

Jose Mendoza-Ruelas,

Defendant.

No. 4:21-CR-6028-RMP-1

Motion to Reopen Detention
Hearing and for Order of Release

Before Hon. Judge Mary K. Dimke

November 18, 2021 – 2:30 p.m.

Yakima—With Oral Argument

I. Background

Jose Mendoza-Ruelas, by and through counsel, hereby moves this Court to reopen his detention hearing and order his release pending trial.

Mr. Mendoza-Ruelas was indicted initially on July 7, 2021 with a superseding indictment following on August 3, 2021. ECF Nos. 1, 23. Mr. Mendoza-Ruelas faces five counts, all involving the alleged distribution of fentanyl and/or methamphetamine. *See* ECF No. 23. This Court held a detention hearing on July 21, 2021 (ECF No. 20) and ultimately found Mr. Mendoza-Ruelas failed to rebut the presumption of detention and ordered his detention pending trial (ECF No. 21).

In its detention order, the Court noted that despite the fact Mr. Mendoza-Ruelas has lived in the District for the past approximately 14 years, has a child who lives in the District, and that he is in a relationship with an individual who lives in the District, Mr. Mendoza-Ruelas “lacks significant ties to the District.” ECF No. 21 at 4. The Court went on to note “the inadequacy of GPS monitoring when risk of flight to a foreign country is involved” as an additional factor leaning against release. *Id.* Ultimately, the Court found by a preponderance of evidence that Mr. Mendoza-Ruelas posed a flight risk and concluded his release pending trial was not appropriate. *Id.*

In light of the Court’s findings, Mr. Mendoza-Ruelas comes before the court with a new release plan to address the above-mentioned concerns.

II. Analysis

Mr. Mendoza-Ruelas seeks his release pending trial pursuant to the Bail Reform Act (“BRA”), 18 U.S.C. § 3141 *et seq.* A court’s determination that detention is appropriate pending trial “may be reopened . . . at any time before trial if the judicial officer finds that information exists that was not known to the movant at the time of the hearing and that has a material bearing on the issue [of] whether” release is appropriate pursuant to the BRA. 18 U.S.C. § 3142(f).

The BRA “requires the release of a person facing trial under the least restrictive condition or combination of conditions that will reasonably assure the appearance of the person as required and the safety of the community.” *United States v. Gebro*, 948 F.2d 1118, 1121 (9th Cir. 1991) (citing 18 U.S.C. § 3142(c)(2)). “Only in rare circumstances should release be denied, and doubts regarding the propriety of release should be resolved in the defendant’s favor.” *Id.* (citing *United States v. Motamedi*, 767 F.2d 1403, 1405 (9th Cir. 1985)).

In situations where the BRA imposes a rebuttable presumption of detention, the defendant can rebut the presumption if he is able to produce “some evidence” that he is neither a flight risk nor a danger to the community. *United States v. Clark*, 791 F.Supp. 259, 260 (E.D. Wash. 1992). “Although the presumption shifts a burden of production to the defendant, the burden of persuasion remains with the government.” *United States v. Hir*, 517 F.3d 1081, 1086 (9th Cir. 2008).

1 In making the determination whether pretrial release is appropriate, a court
2 must consider: 1) “the nature and circumstances of the offense,” 2) “the weight of the
3 evidence,” 3) “the history and characteristics of the person,” and 4) “the nature and
4 seriousness of the danger to any person or the community that would be posed by the
5 person’s release.” 18 U.S.C. § 3124(g).

6 **III. Argument**

7 To assuage the Court’s concerns regarding a risk of flight, Mr. Mendoza-Ruelas
8 has located an individual to post a bond on his behalf. His friend, Mr. Leobardo Leyva,
9 is willing to post a bond on his behalf. Mr. Leyva is a Legal Permanent Resident. In
10 addition to added assurance that he will appear as required due to the imposition of a
11 bond, Mr. Mendoza-Ruelas has indicated that he would be able to pay for and is willing
12 to submit to GPS monitoring while on pretrial release.

13 Were he to be released pending trial, Mr. Mendoza-Ruelas’s intends to reside
14 with his significant other, Maria Duarte, and her two minor children in Benton City,
15 WA. Ms. Duarte’s residence was searched pursuant to a warrant, however, no
16 evidence of criminal activity was discovered.

17 Mr. Mendoza-Ruelas has very minimal criminal history, and what history he
18 does have occurred over a decade ago. There is no allegation that violence or threats
19 were used by Mr. Mendoza-Ruelas at any point in the commission of the charged
offenses and he is a long-time resident of the District. Further strengthening his ties to

1 the community where he has lived for the past approximately 14 years, his daughter
2 resides in the District. There is no indication Mr. Mendoza-Ruelas would pose a
3 danger to the community were he to be released and, with the imposition of a bond, any
4 risk of flight or nonappearance will be greatly diminished.

5 **IV. Conclusion**

6 For the reasons discussed above Mr. Mendoza-Ruelas respectfully requests that
7 the Court set a detention hearing for November 18, 2021, at 2:30pm and order his
8 release pending the resolution of this matter.

9 Dated: November 12, 2021.

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Service Certificate

I certify that on November 12, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System, which will notify Assistant United States Attorneys: Stephanie A. Van Marter.

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